

1 **BISNAR | CHASE**

2 ONE NEWPORT PLACE

3 1301 DOVE ST., SUITE 120

4 NEWPORT BEACH, CA 92660

5 PHONE: (949) 752-2999

6 FACSIMILE: (949) 752-2777

7 JOHN P. BISNAR, State Bar No. 80894

8 BRIAN D. CHASE, State Bar No. 164109

9 Attorneys for Plaintiff JOSHUA HILD

10

11 **UNITED STATES DISTRICT COURT**

12 **NORTHERN DISTRICT OF CALIFORNIA**

13 JOSHUA HILD,

14 Plaintiff,

15 vs.

16 CALIFORNIA SUPREME COURT;  
17 CALIFORNIA COURT OF APPEAL,  
18 SECOND APPELLATE DISTRICT,

19 Defendants.

20 **CASE NO. C 075107 THE**

21 **PLAINTIFF'S ERRATA RE TABLES  
22 OF CONTENTS/AUTHORITIES ON  
23 PLAINTIFF'S OPPOSITION TO  
24 MOTION TO DISMISS FIRST-  
25 AMENDED COMPLAINT.  
[Fed.R.Civ.P. Rule 12(b)(6)]**

26 **DATE:** Jan. 14, 2008

27 **TIME:** 10:00 a.m.

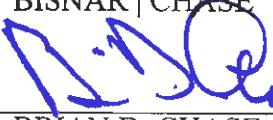
28 **CTRM:** 12 - 19th Fl.

The Hon. Thelton Henderson

29 Plaintiff, JOSHUA HILD, hereby submits his following tables of contents and authorities  
30 inadvertently omitted from his previously-filed Opposition to the Motion of Defendant SUPREME  
31 COURT OF CALIFORNIA, to dismiss his First-Amended Complaint pursuant to Fed.R.Civ.P. Rue  
32 12(b)(6).

33 DATED: December 27, 2007

34 **BISNAR | CHASE**

35 By: 

36 BRIAN D. CHASE  
37 Attorneys for Plaintiff

## **TABLE OF CONTENTS**

I.	INTRODUCTION AND FACTUAL BACKGROUND .....	1
II.	LIMITATION ON DISFAVORED RULE 12 MOTIONS .....	1
III.	PLAINTIFF POSSESSES STANDING BECAUSE THE NONCITATION RULE DEPRIVED HIM OF THE PROCEDURAL GROUNDS FOR JUDICIAL REVIEW OF THE FLAWED UNPUBLISHED SECOND DISTRICT COURT OF APPEAL OPINION. ....	1
	A.    PLAINTIFF HAS SUSTAINED ACTUAL INJURY .....	2
	B.    RULE 8.1115(A) CAUSED PLAINTIFF ACTUAL INJURY. ....	6
	C.    PLAINTIFF'S INJURY WOULD BE REDRESSED BY A FAVORABLE DECISION, MANDATORILY MEASURED AT THE TIME HIS COMPLAINT WAS FILED. ....	6
IV.	UNDER <i>ROOKER-FELDMAN</i> THIS COURT EXPRESSLY HAS THE JURISDICTION TO DECLARE A GENERAL COURT RULE, C.R.C. RULE 8.1115(A), UNCONSTITUTIONAL .....	9
V.	THE ABSTENTION DOCTRINE IS INAPPLICABLE, BECAUSE THE STATE COURT PROCEEDINGS ARE CONCLUDED .....	10
VI.	THE ELEVENTH AMENDMENT DOES NOT BAR THIS SUIT, BECAUSE NO DAMAGES OR INJUNCTIVE RELIEF IS SOUGHT .....	11
VII.	DEFENDANT'S CONTENTION THAT THE NINTH CIRCUIT AND STATE COURTS HAVE SOMEHOW FOUND RULE 8.1115(A) CONSTITUTIONAL, IS INCORRECT .....	13
VIII.	THE ANTI-INJUNCTION ACT DOES NOT APPLY AS NO INJUNCTIVE RELIEF HAS BEEN SOUGHT .....	15
IX.	BEAM CONSTITUTIONALLY PROHIBITS THE MISCONDUCT ALLEGED HEREIN .....	15
IV.	CONCLUSION .....	15

**TABLE OF AUTHORITIES**

	<u>Page</u>
<b><u>Cases</u></b>	
<i>Agua Caliente Band of Cahuilla Indians v. Hardin</i> 223 F.3d 1041 (2000) . . . . .	11
<i>Allen v. City of Beverly Hills</i> 911 F.2d 367 (9th Cir. 1990) . . . . .	12
<i>Allen v. Wright</i> 468 U.S. 737, 104 S.Ct. 3315 (1984) . . . . .	1
<i>American Civil Liberties Union of Nevada v. Lomax</i> 471 F.3d 1010 (9th Cir. 2006) . . . . .	2
<i>Anastasoff v. United States</i> 223 F.3d 898, <i>vac. as moot on reh'g en banc</i> , 235 F.3d 1054 (8th Cir. 2000) . . . . .	14
<i>Atlantic Coast Line R. Co. v. Engineers</i> , 398 U.S. 281, 90 S.Ct. 1739, 26 L.Ed.2d 234 (1970) . . . . .	9
<i>Balistreri v. Pacifica Police Dept.</i> 901 F.2d 696 (9th Cir. 1990) . . . . .	1
<i>Bonnichsen v. United States</i> , 367 F.3d 864 (9th Cir. 2004) . . . . .	6
<i>Cahill v. Liberty Mut. Ins. Co.</i> 80 F.3d 336, 337-338 (9th Cir. 1996) . . . . .	1, 5
<i>Cavinin v. Pac. Southwest Airlines</i> (1983) 148 Cal.App.3d 512 . . . . .	8
<i>Cedars-Sinai Medical Center v. Superior Court</i> (1998) 18 Cal.4th 1 . . . . .	4
<i>Clark v. City of Lakewood</i> 259 F.3d 996 (9th Cir. 2001) . . . . .	2, 6
<i>Conely v. Gibson</i> 355 U.S. 41, 78 S.Ct. 99 (1957) . . . . .	1
<i>De La Cruz v. Tormey</i> 582 F.2d 45 (9th Cir. 1978) . . . . .	1
<i>District of Columbia v. Feldman</i> 460 U.S. 462 (1983) . . . . .	2, 6
<i>Doe v. United States</i> 58 F.3d 494 (9th Cir. 1995) . . . . .	12
<i>Ex parte Young</i> 209 U.S. 123, 28 S.Ct. 441, 52 L.Ed. 714 (1908) . . . . .	11, 12
<i>Exxon Mobil Corp. v. Saudi Basic Industries Corp.</i> 544 U.S. 280, 125 S.Ct. 1517, 161 L.Ed.2d 454 (2005) . . . . .	10
<i>Gladstone Realtors v. Village of Bellwood</i> 441 U.S. 91, 99 S.Ct. 1601 (1979) . . . . .	1, 2
<i>Hart v. Massanari</i> 266 F.3d 1155 (9th Cir. 2001) . . . . .	14
<i>Hydrick v. Hunter</i> 466 F.3d 676, 686 (9th Cir. 2006) . . . . .	1
<i>Idaho v. Coeur D'Alene Tribe of Idaho</i> 521 U.S. 216, 117 S.Ct. 2028, 138 L.Ed.2d 438 (1997) . . . . .	11

**TABLE OF AUTHORITIES**

(Continued)

		<u>Page</u>
2	<b><u>Cases</u></b>	
3	<i>In re Estate of Beard</i> (1999) 71 Cal.App.4th 753 .....	4
4	<i>In re Williams</i> 69 Cal.App.3d 840 (1977) .....	14
5	<i>James B. Beam Distilling Co. v. Georgia</i> 501 U.S. 529 (1991) .....	15
6	<i>Kanna v. State Bar of California</i> , 505 F.Supp. 633 (N.D. Cal. 2007) .....	10
7	<i>Lujan v. Defenders of Wildlife</i> , 504 U.S. 555, 112 S.Ct. 2130, 119 L.Ed.2d 351 (1992) .....	2
8	<i>Mary M. v. City of Los Angeles</i> (1991) 54 Cal.3d 202 .....	4, 8
9	<i>Middlesex County Ethics Comm'ee v. Garden State Bar Ass'n</i> 457 U.S. 423, 431, 102 S.Ct. 2515 (1982) .....	11
10	<i>Olivia N. v. NBC</i> (1977) 74 Cal.App.3d 383 .....	4
11	<i>New Orleans Pub. Service, Inc. v. Council of City of New Orleans</i> 491 U.S. 350, 109 S.Ct. 2506 (1989) .....	10
12	<i>People v. Barnes</i> (1986) 42 Cal.3d 284 .....	4, 7
13	<i>People v. Thornton</i> (1974) 11 Cal.3d 738 .....	4, 7
14	<i>People v. Superior Court</i> 22 Cal.App.4th 1541 (1994) .....	14
15	<i>Perez v. Van Groningen, etc.</i> (1986) 41 Cal.3d 962 .....	4
16	<i>Rooker v. Fidelity Trust Co.</i> 263 U.S. 413, 416, 44 S.Ct. 149, 68 L.Ed. 362 (1923) .....	9
17	<i>Seminole Tribe of Florida v. Florida</i> , 517 U.S. 44, 116 S.Ct. 1114, 134 L.Ed.2d 252 (1996) .....	11
18	<i>Scheuer v. Rhodes</i> 416 U.S. 232, 236, 94 S.Ct. 1683, 1686 (1974) .....	1
19	<i>Schmier v. Ninth Circuit Court of Appeal</i> , 279 F.3d 817 (9th Cir. 2002) .....	6, 13
20	<i>Schmier v. Supreme Court</i> 78 Cal.App.4th 703 (2000) .....	14
21	<i>Schneider v. Chertoff</i> , 450 F.3d 944, 959 (9th Cir.2006) .....	2
22	<b><u>Statutes</u></b>	
23	U.S. Constitution	
24	Art. I, § 16 .....	8
25	Article III .....	1, 13, 14

**TABLE OF AUTHORITIES**

(Continued)

		<u>Page</u>
1	<b><u>Statutes</u></b>	
2	U.S. Constitution	
3	7th Amendment .....	8
4	11th Amendment .....	11, 12
5	14th Amendment .....	3, 5, 13
6	28 U.S.C.	
7	§ 1257 .....	9
8	28 U.S.C. Fed.R.Civ.P.	
9	Rule 12(b)(6) .....	1
10	Rule 15(a) .....	12
11	28 U.S.C. F.R.A.P.	
12	Rule 32.1 .....	14
13	Ninth Circuit Rules	
14	Former Rule 36-3 .....	13, 14
15	Cal. C.C.P.	
16	§ 592 .....	8
17	Cal. Evid.C.	
18	§ 312 .....	8
19		
20		
21		
22		
23		
24		
25		
26		
27		
28		

**PROOF OF SERVICE**

***Joshua Hild vs. California Supreme Court, et al.***  
**CASE NO. C-07-05107-TEH**

I am employed in the county of Orange, State of California; I am over the age of eighteen years and not a party to the within action; my business address is 1301 Dove Street, Suite 120, Newport Beach, California.

On December 28, 2007, I served the foregoing **PLAINTIFF'S ERRATA RE TABLES OF CONTENTS/AUTHORITIES ON PLAINTIFF'S OPPOSITION TO MOTION TO DISMISS FIRST-AMENDED COMPLAINT** on all interested parties in this action:

- BY MAIL**, by placing a true copy thereof, in an sealed envelope to the addressee(s) ON THE ATTACHED SERVICE LIST, and depositing the same into the United States mail at the address located set forth hereinabove, with sufficient first-class postage thereon pre-paid:
- BY OVERNIGHT PRIORITY MAIL WITH NEXT DAY DELIVERY GUARANTEED** by placing a true copy thereof, in an sealed envelope to the addressee(s) ON THE ATTACHED SERVICE LIST, and depositing the same into the **OVERNITE EXPRESS** mail drop at the address located set forth hereinabove, with postage pre-paid.
- BY FACSIMILE**, by transmitting by facsimile transmission a true and correct copy of the same to the addressee(s) listed ON THE ATTACHED SERVICE LIST:
- BY PERSONAL SERVICE**, by personally delivering the same to the addressee(s) listed ON THE ATTACHED SERVICE LIST:

I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on December 28, 2007, at Newport Beach, California.

Angie Oremus  
Angie Oremus

<i>COUNSEL</i>	<i>PARTY(S)</i>
Tom Blake, Deputy Attorney General 455 Golden Gate Avenue, Suite 11000 San Francisco, CA 94102-3664 Tel: (415) 703-5506 Fax: (415) 703-5480	Attorneys for Defendants CALIFORNIA SUPREME COURT and CALIFORNIA COURT OF APPEAL, SECOND APPELLATE DISTRICT